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THE

# MINISTERIAL CRISIS

AND

## Mr. DENIS BENJAMIN VIGER, &c.

KINGSTON.

1844.

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# NOTICE.

I have been reproached with more than bitterness, for the part I took in the discussion of the question arising out of the resignation of the greater number of the Members of our late Ministry.

While I felt the necessity of assigning the reasons of the course I adopted on that occasion, I felt also certain that I should not be condemned unheard. I did not deceive myself in believing my fellow-countrymen incapable of such injustice.

They will now be able to satisfy themselves that I have not deserved to lose their confidence, of which an attempt has been made to deprive me. I am proud to say that I have, since the event alluded to, received from many of them, and especially from those whose Representative I have the honor to be, marks of esteem which give them new claims upon my gratitude.

In the Assembly I was under the necessity of repelling more than one serious accusation. Many more have been since made. One of the gravest among the latter is, that my conduct is calculated to excite division among the true friends of order and right government; and this charge has been made on the ground that their union alone forms their strength, and that dissensions would weaken and might destroy them.

But the end does not justify the means to a party or a government more than to individuals; and a union formed by freemen for the purpose of defending their rights ought to be based upon justice and morality, its object should be legal and constitutional, and should be pursued by legal and constitutional means. I was con-

vinced that as the proceedings I opposed were not of this character, their consequences could not be other than disastrous.

All the proceedings relative to the resignation of the late Ministers were founded on the permission they supposed they had received to enter into explanations with regard to matters which they were bound by oath to keep secret, and upon two documents too well known to make it necessary to designate them more particularly in this place.

But this supposed permission had no existence: the late Ministry had not taken the steps requisite for obtaining it.

If it had been given even in writing, (which no one pretends it was) and without reservation, they could not have used it without violating their duty; but instead of such permission they had before them the answer of the Governor, closing with a formal protest against the explanation they proposed to offer.

The Assembly had no right to take cognizance of documents laid before it contrary to all rule and parliamentary usage. Nor could these documents, under whatever point of view they are considered, furnish even a plausible pretext for the address in favour of the late Ministry, proposed by their partizans.

My first object was to shew that palpable errors ought not to be set up as principles; that the liberties of the people could not be based upon a forgetfulness of the most sacred and solemn obligations, that they could have no true foundation but justice, and that immorality could only prepare a people for servitude.

Could I do otherwise than believe that these sentiments would find an echo in the hearts of my countrymen?

These were my motives for raising my voice against the address. All may now judge whether I have failed to prove the truth of my propositions. I believe that I have carried that proof even to demonstration.

I have made it evident that with a system of conduct such as that proclaimed to be right on the occasion in question, it would not only be impossible to carry Responsible Government into practice, but that no kind of government would be possible.

I ask no favour with regard to my conduct in the Assembly; all I ask is justice, and I have a right to believe that I shall obtain it. With regard to the account of that conduct which I now render, being, as it is, the work of moments, stolen (as I may say) from laborious duties, I claim for the faults of composition which may be found in it, the indulgence of my countrymen.

As to the accusations heaped upon me, the sole revenge I seek is, that their authors, seeing that I deserved them not, may be sorry for having made them.

D. B. VIGER.

Kingston, January, 1844.

THE

# MINISTERIAL CRISIS

AND

# MR. DENIS BENJAMIN VIGER, &c.

## PART THE FIRST.

### REMARKS ON THE PROCEEDINGS OF THE LEGISLATIVE ASSEMBLY RELATIVE TO THE RESIGNATION OF THE LATE MINISTERS.

It frequently happens in political contests that an earnest desire to support a principle in itself just, creates illusion not only as to the means we possess of enforcing its adoption, but even as to the reasons which can be insisted upon for ensuring its triumph.

Unexpected as the resignation of the Ministry during the late Session was, it could hardly fail to give rise to those keen and even angry feelings which trouble mens' minds, and diminish for a time the chance of their coming to perfectly correct conclusions.

This is not the first occasion on which men of talent and information, actuated by the best intentions, have allowed themselves to be carried away by the excitement of the moment.—The wisdom of deliberative bodies has more than once failed to guard them against this mischance; and it is sometimes beyond their power to resist the impulse of the day, and to guard against those misconceptions which are so much the more powerful from having their rise in sentiments of the most generous and lofty nature.

Such was truly the position of the Assembly on the sudden and unexpected news of the resignation of the Ministers, in the latter part of November, more especially when they announced it as the consequence of their efforts in the cause of Responsible Government, which was thence said to be lost without resource, if they did not obtain from the Commons of Canada a vote of approval of their conduct, and an address to the Governor in support of the principles enunciated in the resolutions of the 3d September, 1841.

This was the object of the steps taken by those who supported the late Ministers, when they proposed the first paragraph of the address subsequently voted on the 2d December last.

If it could have been truly said, that all those who held opinions different from those of the late Ministers and their partisans in the House had repudiated the doctrine of Responsible Government, or sought to undermine it, if they had endeavored to bring back the old state of things under which the Province suffered so long and so much, it would have been natural and right that no time should be lost in exposing so grave and perilous a fault, or in urging their Constituents to testify their disapproval of conduct so inexcusable.

The doctrine of Responsible Government indeed, cannot fail to be embraced as the political faith of the people of this Province, throughout its length and breadth, feeling as they do the value of those rights which are the inheritance of all who live under a constitutional government, and belong by the laws of the Empire to every British Subject as his birthright; and nothing does them greater honor than their attachment to a system which can alone practically ensure their enjoyment of these rights.

The name of Mr. D. B. Viger and the consideration of the part he took on the occasion of the resignation of

the late Ministers, are inseparable from the discussion of the questions to which that event gave rise in the Legislative Assembly. If the charge brought against him of having voted against the system of Responsible Government be proved, his fellow-countrymen must of necessity pronounce sentence of condemnation against him with regard to his conduc t on that occasion.

Whatever may have been the merit or the services of a public man, the wisdom of his conduct or his doctrine, neither any consideration of these, nor any feeling of gratitude to him, ought to turn the balance in his favor when a vital principle essential to the preservation of the liberties of the people is at stake. It will be soon seen whether the conduct of Mr. Viger was of a nature to excite indignation.

It will be sufficient here to remark, that certain parties have, from the first, shown an over-eagerness to condemn him. In some of the papers in the Upper Section of the Province, he has been denounced as eaten up with ambition, as having covered himself with dishonor and as a traitor to his country. It was called charitable, to suppose him to be fallen into that species of childishness which old age sometimes brings with it, or as being fit only for the hospital of incurables.

In the Editors of some journals favorable to the late Ministry, it was a mark of courage not to heap abuse upon him: but there are some who have had the still higher courage to do him justice, and to take up his defence. He is proud of having found in the former generous opponents, whose censure was mingled with expressions of kindness and good-will.

It is also flattering to him to find that those of his fellow-countrymen in Lower Canada, who ought to know him best, do not seem generally to have suspected him of vain ambition or of mercenary feelings, and have endeavoured to account for a conduct which was repre-

sented as inexplicable, by attributing it to the weakness of age, or to his being misled by a feeling of friendship for the only one of the Ministers who had not resigned.

He has seen too, with satisfaction, that those who appeared to wish to denounce him as actuated by corrupt or criminal motives, have felt that they had chosen dangerous ground for their attack; and that this manœuvre was, to say the least, unskilful. Nothing could tend more to strengthen the affectionate feelings which bind him to his country.

But since the occasion in question, those who voted in the Assembly against the first paragraph of the address have been unceasingly denounced as the enemies of Responsible Government; and the question arises whether they who bring this charge against all who so voted are sincere. We are bound to believe they are; but who does not see that on this point as on many others connected with the same subject, they are in error. Among those who refused to accede to the proposed address, Mr. Viger more particularly never ceased to insist in the most formal manner, that the course adopted by the supporters of the late Ministry was without a precedent; that the measure they proposed, destitute as it was of all foundation, was inconsistent with constitutional principles, with the rules and usages of Parliament, and with the most solemn duties attached to the ministerial functions; that instead of supporting the system of Responsible Government their proceedings were only calculated to weaken or destroy it; that with such a system of conduct Responsible Government could neither be established or maintained, and that neither it nor any other system of government would be practicable or possible.

It is not less strange that some persons should have allowed themselves to heap abuse beforehand on those who perceiving their error, might have the courage to leave the wrong path for the right one. Yet this has

been done in more than one instance. Is this fair? Is it politic? Can any well informed man doubt, that the people, and therefore, those who represent the people, are bound even more strictly than those at the head of governments, to observe the laws of justice and of truth, in order to acquire or to preserve their liberties.

It was necessary to make these remarks in order to show the danger of falling into error, in forming opinions beforehand upon the conduct of one whose means of defence are as yet unknown. When he had reason to believe himself on the point of being censured by those who had chosen him to represent them in the Assembly, he had determined to beg them to hear him before pronouncing an opinion on his conduct; but he is bound thus publicly to declare, that before he could do so they had come to a resolution not to condemn him without giving him an *opportunity of defending himself.* He expected nothing less from honorable men.

One most remarkable fact, with reference to the subject before us, is that scarcely a word of Mr. Viger's three first speeches on this important question, are to be found in the newspapers, either of the Upper or of the Lower Section of the Province. It is proposed to supply this omission by a summary of the remarks he then made, for the purpose of enabling the reader to form a just idea of the reasons on which he acted, and to understand correctly the principles on which he resisted the motion relative to the first paragraph of the address in approval of the Ministers, voted on the 2nd of December.

In the summary of these speeches there will be found some remarks intended to illustrate, more clearly, the principles of Responsible Government, which is, in fact, nothing more than the theory of Constitutional Government reduced to practice. All that need be observed here is, that under any form of Government whatsoever, even under that Oriental Despotism where the Sub-

ject knows no other rule of conduct but the sabre and the bowstring, there is no governing without a Council. Those who form this Council are always bound to secrecy as to what passes or is communicated to or among them as Councillors, and this obligation is enforced by the sanction of an oath : the practice is universal. Such was the position of our late Ministers, the Councillors of the Queen, who is represented by the Governor.

To this obligation of secrecy there is, under a Constitutional Government, no exception, unless when the Ministers, or any of them, may be under the necessity of retiring, because they differ in opinion from the head of the Government, with regard to measures for which their office makes them responsible. They may then, according to circumstances, obtain permission to make known to the two Houses of the Legislature the points upon which the difference may have arisen. They can otherwise offer no explanation, except such as may be founded on facts already publicly notorious ; of this, the history of the last forty years furnishes some examples. It is needless to add, that these are fundamental principles.

Let us now observe, that up to Monday, the 27th November, our Ministers had exercised in the Assembly an influence which could hardly be surpassed. Scarcely any one of their measures had encountered any serious opposition. The number of those which they had already carried through the House was considerable, and many others of great importance were on the point of being so. It was difficult to imagine that any thing could occur to induce them to abandon their post under circumstances so favorable to them. This is not the place to hazard conjectures as to the motives which produced such precipitation on their part, at a time when it seems as if they might easily have borne, for a few weeks more, with that *antagonism*, (to use their own expression) which they had managed to bear with for nearly a year. It is not our business either to censure or to praise them on this

point, and we shall be content with observing, that such was the state of things, when on the 27th of November, they suddenly announced their resignation, and their resolution to assign their reasons for it; this they did under circumstances which render necessary some previous remarks, in order to enable us to form just ideas of the nature of the principles and facts upon which Mr. Viger insisted in opposing that motion of the supporters of the late Ministry, on which the first paragraph of the address of the 2nd December, in approval of their conduct, is founded.

There is every reason to believe that it was on Sunday, the day before the announcement of their having retired from office, that they determined to tender their resignation, which the Governor accepted, and hence arises, in the very outset, a circumstance attending the conduct of the late Ministers, which forms what appears to be a problem incapable of solution.

There is no written document proving that permission was either asked or given, to enter into any explanations in the House on the subject of the step adopted by the Ministers,—on this point we can do no more than form conjectures; but what is not doubtful is, that the Governor required them to lay before him, *in writing*, the points on which they intended to enter into explanations in the Assembly.

Mr. Lafontaine, in the name of his colleagues, as it afterwards appeared, laid before His Excellency a statement which, though in other respects skilfully drawn up, contained, with the exception of that portion which related to the *Secret Societies Bill*, nothing of that clear and distinct statement of precise facts which was essentially requisite under such circumstances. Even as touching the said Bill it was faulty, containing, as it did, several assertions with regard to the correctness of which it is clear that the Ministers did not agree with the Governor, who, consequently, could not give them,

on this point more than on the rest, permission to explain to the House ; not to mention that with regard to this Bill His Excellency might, and indeed must, have held himself bound by his instructions from the British Government, which were known to the Ministers, and which did not permit him to give the Royal Sanction to the measure, but made it his express duty to reserve it for the signification of Her Majesty's pleasure.

From all this, it is, as will be shewn, certain that the Governor's proper course was simply to forbid them to enter into any explanation ; but he found himself in this critical position, without a Council, and without any Minister except the Provincial Secretary, who remained alone out of nine Councillors, having seats in the Assembly, (of whom four were *Law Officers of the Crown*,) and who was, by his oath of office, bound to silence on the subject of the explanations in question. Pressed as the Governor was by the current of events, and impossible as it was for him to foresee by what proceedings his late Ministers would, in the Assembly, follow up the step they had taken, it is not much to be wondered at that he should, in this conjuncture, lose sight of what he owed to himself as Governor ; and, that following the example set by those whose business it was to enlighten him by their counsels, he should follow the impulse of the feelings natural to an individual under such circumstances, by answering in an argumentative form, instead of simply forbidding all explanations on a document like that which had been laid before him.

It would not be right to leave this subject without remarking that, independently of the many other decisive reasons which ought to have induced the Ministers (who still remained Councillors) to resist the demand for the documents in question, there is one which ought to have sufficed alone. It is part of the system of Responsible Government that the sentiments of the Personage at the head of the administration ought never

to be made the subject of discussion, and that all communications concerning them ought to be confined to the simplest statements possible. Not only is this the sole means by which it is possible to avoid those slight errors of expression which will almost always escape in the heat of composition; but it is also the only method of guarding against those erroneous interpretations arising, as they too frequently do, from some association of ideas which, having become very general by the force of peculiar circumstances, may, for a time, mislead men otherwise clearsighted and well informed. Such, for instance, was the effect produced, to the Author's certain knowledge, on many persons, by that passage in the reply of Sir Charles, which relates to the *Secret Societies Bill.*

By such persons he has been suspected of favoring *Orangeism*, an institution, of which the effect is to detach those who embrace it from the political community, and to imbue them with separate views and interests, which may, and by the very nature of the thing, are likely to become opposed to those of their fellow-subjects, and which binds them to mutual support by an oath, which has in it something more than illegality, since it so qualifies even their *allegiance*, that it may at any moment become illusory. We say, boldly, that the Governor is very far from entertaining any such feeling; we believe ourselves authorized to add, that he formally condemns any institution of the nature of that above mentioned.*

But whatever be the state of the case, if in considering it we leave out of the question a document which ought never to have appeared before the House, it is necessary to remark that that very document closed with

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* The consideration stated in the text with regard to the nature of this Association, ought to open the eyes of all those Orangemen who to a knowledge of the principles of Government, unite an acquaintance with those of public morality, and with their duties as members of the body politic.

It may be well to remind the reader in this place, that Mr. Viger, in his place in the Assembly, supported the Bill by a multitude of arguments, of which no report is to be found in the papers of the day.

a protest of the most formal kind against the *explanation which the Ministers proposed to offer to Parliament.* If, up to the time when they received the Governor's answer, they believed themselves permitted to give their explanations, or even if they had really received a verbal permission to do so, without any specification of the precise facts as to which alone it could be allowed, it is still scarcely possible to imagine that they should not have perceived that this document, which implied necessarily the revocation of the supposed permission, ought to bind them to silence, saving always their right to obtain thereafter, by constitutional means, His Excellency's leave to explain.

They ought to have regarded the Governor's answer as being what it really was, his protest against a proceeding which nothing could justify; and as a document besides, which was not of a nature to be laid before the House. If His Excellency did, as there is reason to believe, give his orders or his permission that it should be read, it could only be, because having no Ministry in the technical sense of the word, nor any person in the Assembly in a position to take up his defence, he deemed it expedient that his view of the question should be made known, if the Ministers should, notwithstanding his solemn protest, persist in giving explanations in the House of the nature of those implied in the document they had submitted to him.

The object of these remarks is to state the probable cause of the step adopted by His Excellency, and not to assert that it was the correct one; it will be seen that Mr. Viger expressed his opinion decidedly on this point.

On the 29th November, after receiving this communication from the Governor, the Honorable the Attorney General for Upper Canada thought proper, nevertheless, to enter into long explanations as to the conduct of the Ministers, their relations with the head of the Govern-

ment in the Executive Council, and the subjects which had been discussed there since he assumed the reins of Government.

It is difficult to imagine Mr. Viger's astonishment when he heard the Honorable Member commence by explanations of this nature. Notwithstanding his personal respect for him he could not help interrupting him (as under such circumstances he was, by an exception to the usual rule, entitled to do) for the purpose of inquiring whether he had the Governor's permission for entering upon such explanations. Mr. Viger's surprise was increased when Her Majesty's Attorney General, in the most formal terms, replied in the affirmative. After some attempts to make known his reasons for entertaining doubts on this point, at the same time that he did the Honorable Attorney General the justice to believe him perfectly sincere and in good faith though under an error, Mr. Viger found himself compelled to remain silent, while the Honorable Attorney General continued to dwell upon numerous subjects of the nature of those abovementioned.

At the conclusion of this scene which must now seem so strange, Mr. Viger rose and expressed his profound regret at his inability to agree in opinion with his Hon. friend, as to his supposed permission to enter into explanations which appeared to him more than extraordinary, since they had no precedent under like circumstances; he remarked that it was essentially necessary in such cases that the permission given should be not only formal but special, confined to a distinct statement agreed to on both sides, of points with regard to which there could be no dispute; that the explanations could relate only to the facts so ascertained, to the conclusions drawn from them on either side, and to the different views which might be taken of them and of the consequences to be deduced from them. No such permission had been given.

Mr. Viger afterwards took occasion to remark upon the contradiction there appeared to be in supposing the Ministers to have received permission to explain from the Governor (who had not even the right to give such permission in general terms and unconditionally) when their communication with him on the subject was followed by his request that the Ministers would furnish him with a statement of the nature of the explanations they intended to offer, and when they had before them the answer of His Excellency, which closed with a formal protest against that very form of explanation which they had submitted for his approval; this answer ought of necessity to have made them silent.

Mr. Viger appealed to principles applicable to every species of discussion of this nature, to constitutional law and to the practice of the British Parliament. He insisted earnestly upon the proceedings in the House of Commons in 1839, when Sir Robert Peel having been called upon to form a new administration, had conceived it necessary to make it a condition that Her Majesty should dismiss the Ladies of the Bed Chamber, on the ground that their husbands, being in the opposition, might avail themselves of their influence with Her Majesty to impede the measures of the administration. The Queen having declined to accede to these conditions, Sir Robert Peel declared it impossible that he should assume the reins of Government. Such was the fact upon which the difference of opinion between Her Majesty and Sir Robert Peel turned, and the consequence of which was that the new Ministers retired and the former administration returned to power.

Under these circumstances it became necessary that Sir Robert Peel should give such explanations in the House of Commons as should be requisite to justify the course he had taken; it is clear, that it was neither upon mere conversations or on a special pleading that he could ground them.

He laid before Her Majesty a clear and succinct statement of the object of the negociation, and the Queen answered, in few words and in writing, that she could not consent to the proposed conditions. There was nothing doubtful in these communications.

It was after these steps had been taken, that Sir Robert Peel asked leave to give his explanation in the House. He received permission by a letter from the Minister. The whole of this correspondence was read before the House and the facts stated in it were commented upon by Sir Robert Peel and by the Minister, without any shadow of a difference of opinion as to the fact itself, but solely with regard to the manner of looking at it, and the consequences to be drawn from it. It is right to observe, that with the exception of Sir Robert Peel and the Minister no person in the House took upon himself to make the slightest remark, and the last words of the latter were, *that he had not the slightest ground to complain of the statement made by Sir Robert Peel.*

In the two speeches made by Mr. Viger during the sitting of that day, he repeatedly challenged the Ministers and those who supported them in the House, to cite from the whole range of Parliamentary History any parallel to the course they were then adopting. This appeal was unanswered.

It must now appear singular, that although Mr. Viger insisted on these and numerous other arguments of equal weight, as proving that the Ministers ought to abstain from persisting in what he held to be a serious violation of their duty, no one Member attempted to refute him. What is yet more singular is, that his observations were scarcely alluded to in the many speeches of the Ministers and their partisans.

It is further necessary to observe that the communications which passed between the Queen, Sir Robert Peel and the Ministers, although read by the two latter, were

not transmitted to the House of Commons, and there is not the slightest allusion to them in the Journals. It never entered into the mind of any Member to ask that they might be laid before the House by Message, and still less to order as our Assembly did, that they should be printed for the use of Members or distributed among the public. In what manner would the Members of the House of Commons, to whatever party they might belong, have treated the motion of a Member who should have risen to ask for *communication of any correspondence between the Queen and Her Responsible Ministers*, and thus to cause the words and actions of his Sovereign to become the subject of comment and discussion. Not a man among them but would have spurned so extravagant a proposition.

In the Legislative Assembly of Canada, on the contrary, the discussion of that day ended in a proceeding which like the rest of those adopted on that memorable occasion, is without a parallel in Parliamentary history.

One of the Members of the opposition moved an Address to the Governor, praying him to lay before the House, *copies of any communications which might have passed between him and the Members of the late Executive Council relative to their resignation.* The Ministers with their powerful majority remained silent!

Mr. Viger, who perceived all the irregularity and unconstitutionality of this proceeding, endeavoured vainly to raise his voice in opposition to it; finding it impossible to obtain an hearing, he was forced to resume his seat, and the motion passed without a division.

It is difficult to conceive that the Governor was right in consenting to lay these documents before the House; but he was induced to do so by motives which may be supposed to have actuated him as an individual, and which are easily understood and in this point of view were laudable, whatever opinion may be held with re-

gard to the proceeding when viewed as a Constitutional question. The documents were laid before the House on the first of December, on which day Mr. Price made his motion for an Address to the Governor approving the conduct of the Ministers, the consideration of which was postponed till the next day, the 2nd of December.

On that day instead of explanations we had, as on the former occasion, debates which may be characterized as vague, and in the course of which more than forty * Members spoke, many of them repeatedly. The speeches were filled with incriminations and recriminations on the part of the Ministers and their partizans on the one hand, and the Members of the opposition on the other, with reference to the subjects of deliberations held under an oath of secrecy, not on any one matter, at any one moment, or on any one day, but with regard to facts without number, and of divers dates, but having occurred weeks, months, or even nearly a year before, under a preceding administration. One of the Members of the Ministry went so far as to talk of things which had happened under the administration of Sir Charles Bagot, on whom the gates of the tomb had so long closed.

Who then can blame Mr. Viger for having interrupted the Honorable Attorney General for Upper Canada? Who can say that he had not the best reasons for calling upon those against whose proceedings he raised his voice, to cite some instance of similar proceedings in the House of Commons of England or even any where else, some parallel to the line of conduct they had chosen?

In his speech, on that day, Mr. Viger touched again upon the subject he had before treated, and shewed how inconsistent the proceedings then before the House, as well as those which had preceded it, were with the duty

* In proportion to the number of Members in both Houses respectively, this would be *three hundred* for the House of Commons.

of theMinisters under their oath of office, with the rules and usages of Parliament, and with justice and public morality.

He insisted strongly on the mutual forbearance which ought to be shown with regard to any mistake which might be made in the first working of a system so new to all parties; and upon the difficulty of not falling into some errors, destitute as the House was of the light of experience to guide it in carrying out a system, with which it might still be said to be only acquainted in theory.

The debates of that day were followed by several motions in amendment of the main one, and among others by that of Mr. Viger, the object of which was to declare, that the House adhered firmly to the principles embodied in the resolutions on Responsible Government passed on the 3rd September, 1841, but that there was not then before it any document which according to Parliamentary usage and practice could serve as the basis of an Address to the Governor on that subject.

How has it happened that after this frank expression of his sentiments, Mr. Viger has since that time been perseveringly accused of having voted against Responsible Government?

It is now evident, and we hope to show (if possible) still more clearly, that there was no *fact* before the House on which it could pronounce an opinion of the nature of that required of it on the occasion in question.

It is unnecessary to press this point further for the present, since it formed the principal subject discussed by Mr. Viger, in his speeches of the 29th November and 2nd December, and of some remarks he made on the 7th of the month last named. The summary which it is proposed to give of these speches will enable the public to judge, whether he has deserved the more than bitter

reproaches which have been heaped upon him unceasingly since the period in question.

Mr. Price's motion was modelled on a motion of the same kind made in the British Parliament on an occasion when the Ministry of the day had determined to resign.

But even upon the supposition, that the doctrine of Responsible Government could at that time be constitutionally brought under discussion in the House, it is scarcely possible to perceive any necessity for the second motion introduced by Mr. Boulton. This motion was carried by a great majority composed of Members from both sides of the House, and the same majority subsequently voted in like manner the address founded on the two motions jointly: yet the fair inference to be drawn from it is, that some stipulation was really demanded of the Governor relative to the exercise of the Royal Prerogative, or that there was something else wrong in the conduct or in the demands of the Ministers, which it was deemed expedient to disavow by this resolution.

The correctness of this conclusion cannot fail to strike all those who are in the least degree versed in constitutional law, and who cannot be ignorant of the maxim, *that to govern is to select the instruments of Government;* which being the case, it is difficult to conceive it possible that any difference of opinion could have arisen as to the right claimed by the late Ministers.

They ought to have felt, that no attempt should be made to appeal to general principles on subjects of the kind in question, except in cases of urgent necessity and with reference to undisputed facts.

On this head, it will suffice to remark here, that the mere theory does not agree with the practice. The doctrine of the independence of the Crown in the

exercise of its prerogative cannot be questioned, but is on the contrary formally acknowledged, while in practice the Ministers are consulted by the Head of the Government, on all measures which are supposed to be adopted only after they have been considered in Council, and for which the Ministers become responsible for this very reason.

The matter is one, which by prudent management on both sides, seldom leads to difficulty, except in cases as extraordinary as that in which Sir Robert Peel found himself involved with regard to Her Majesty's Ladies of the Bedchamber.

From the word *antagonism* used by Mr. Lafontaine, when speaking in the name of his Colleagues, it might be inferred that some difference of opinion had occurred between the Governor and his Ministers in their views of the system of Responsible Government, or as to the consequences to be deduced from it in practice.

But those who are capable of appreciating the value of a principle enunciated as clearly and proclaimed as solemnly as that embodied in the Resolutions adopted by the Assembly on the 3rd September, 1841, cannot deceive themselves as to the importance, under existing circumstances, of His Excellency's frank and hearty declaration, *that he considers any other system of Government but that which recognizes responsibility to the People and to the Representative Assembly, as impracticable in this Province.*

If the Ministers thought they perceived in the sentiments of the Governor any danger to the system, this declaration ought to have reassured them. And even supposing that some difference of opinion or even error existed in this respect, it could never become of much importance or be of long duration, since it would be easy to turn to account here the experience of more than a century and a half, during which the most difficult

questions relative to the system have received their solution in the Mother Country.

The Ministers would have done wisely, on the receipt of the Governor's answer, to have held a conference in order to deliberate on the course to be adopted, in consequence of the variety as well as the importance of the considerations involved in that document, and for that purpose to have postponed their final determination until the following day at least. We may not hazard any conjecture as to their motives for having come to another decision.

Whatever difficulty there may be in approaching a subject so delicate, we may be allowed to inquire, whether by adopting this wise precaution, it would not have been possible to find matter for new explanations, means of coming to some mutual understanding or even to a reconciliation; while the precipitate course taken by the Ministers could have no other result than to make them lose sight of their most solemn obligations and most imperative duties, to lead them into that series of errors pointed out by Mr. Viger, and thereby to widen the breach into an abyss.

THE

# MINISTERIAL CRISIS

AND

## MR. DENIS BENJAMIN VIGER, &c.

PART THE SECOND.

A SUMMARY OF THE REMARKS MADE BY MR. VIGER IN THE LEGISLATIVE ASSEMBLY, AND MORE ESPECIALLY IN HIS SPEECH OF THE 2ND DECEMBER, 1843, RELATIVE TO THE MOTION FOR AN ADDRESS IN FAVOR OF THE LATE MINISTRY.

## PRELIMINARY OBSERVATIONS.

It becomes again requisite to solicit the indulgence of the public with regard to the following summary of the remarks made by Mr. Viger, in his third speech in the Legislative Assembly, on the question arising out of the resignation of the late Ministry.

It was scarcely possible to avoid repetition, particularly with reference to the system of Responsible Government, which, as it has been before observed, is but the theory of Constitutional Government, reduced to practice. It was indispensable that Mr. Viger should dwell particularly on the principles connected with it, and should develope them at considerable length. Leisure has been wanting to introduce into the work that degree of order and perspicuity of style which would have been desirable; and there are some omissions in it, which, however, the remarks contained in the first part will in a great measure afford the means of supplying.

## SUMMARY OF THE REMARKS, &c.

MR. SPEAKER,

The title of the late Ministers to obtain, and the arguments advanced by their partisans in favor of their obtaining an Address in approval of their conduct, must rest in the first place, on their right to enter into explanations in this House as to their reasons for resigning, and next, supposing them to have that right, upon the *facts* which they may lay before the House in support of the step they propose, one of the most solemn and important which we can adopt. I have already shewn and I intend again to shew, that they had obtained no right to enter into explanations; that they have laid nothing before this House, and that there exists no document which can serve as the basis of an Address to the Governor on this subject. I shall carry the proof of the truth of these propositions to the extent of demonstration.

But as I have become the object of bitter reproach for the part I have taken in this discussion, and have been threatened with public indignation and even with the loss of the confidence of those I have the honor to represent, it becomes my first duty to myself, to this House, and to my fellow subjects, to prove that this reproach is destitute of any just foundation, and that my duty to my country compels me to brave the threat, whatever may be the consequence to myself.

I hope thus to obtain the advantage of removing a prejudice which might engender false notions upon the subject under discussion, upon which it is of the last importance to form no ideas but such as are rigorously correct.

In the midst of the noise, confusion and excitement which prevailed in this House, when I spoke for the first time, I could perceive that Honorable Members had per-

suaded themselves, that I was invoking principles and supporting doctrines contrary to those upon which I was really insisting; and that many among them had entirely mistaken the nature of my sentiments on what they considered, erroneously as far as I was concerned, to be the principal subject of the discussion.

Honorable Members will recollect, that on repeated occasions and with regard to divers matters, which to me appeared to be of extreme importance, I tried in vain to make my voice heard against what I conceived to be a deviation from, and even a flagrant violation of the rules which ought to guide us in our deliberations. I was thus forced to remain silent.

I could perceive that I was supposed to be myself in a state of extreme excitement, and led away by a species of *hallucination* on the one hand, while on the other I was misled by a feeling of lively friendship towards the only one of the Ministers who had not abandoned his post; in fact that I was in a state of complete illusion.

I must acknowledge that I was in the most painful position possible; forced as I was to endeavour to stem the current of the feeling of the day, to separate myself from those whose measures I had hitherto thought it my duty to support, to contend against a majority composed of men, whose sentiments, principles and conduct in the House I respect, to run the risk even of losing the esteem of my countrymen, purchased by long vigils, unremitting efforts and severe toils borne in defending their cause and supporting their dearest interests, to lose in fact the most precious reward to which the public man can aspire.

One of the heaviest blows I could have been called upon to sustain, would have been loss of the affection of my countrymen, the source of the purest delight I have tasted in the course of a life devoted wholly to their service; but I have never sacrificed and never will sacrifice

my principles for the sake either of preserving, or of gaining that affection;—my first duty is to deserve it. If I ceased to adopt this maxim as my rule of conduct, what could I expect of any honest man, but his contempt as the reward of my baseness.

I cannot believe the respected friends to whom I even now owe the honor of a seat in this House, incompetent to examine or unable to appreciate the motives of my conduct. But, if it were possible that their refusal to support me with their votes should force me to abandon public life, I should at least have the satisfaction of not having sacrificed the rights I was sent here to defend. In my retirement I should have the consolation of knowing, that I had done all in my power to support the edifice of Responsible Government, against the attempt to force us to a step, which far from ensuring its safety can only tend to shake it to its foundations. I confide in the justice of my countrymen.

For the vivacity of my manner, I have frequently craved the indulgence of Honorable Members, who must have remarked that my warmth of expression springs not from passion, but from a deep conviction that I am in the right: I now appeal to them to say, whether from my general conduct in the House or from that I have held on this occasion, they can bring themselves to believe that my feelings have bewildered my judgment, or whether in any thing I have said I have infringed the rules of justice, morality or courtesy.

I have next to repel a charge of the gravest kind. Being compelled, by a sense of duty which I dared not disobey, to interrupt the Honorable Attorney General for Upper Canada for the purpose of inquiring whether he had permission to make certain explanations, I was believed guilty of insulting a man whose friendship I esteem an honor to me, and of having, by that inquiry, proclaimed to the country that I more than doubted his sincerity. I am entitled to ask, whether those who

must bear me witness that I have never, in addressing this House, violated the rules of politeness, ought to have believed me capable of intending to insult the Honorable Member, for whom my conduct here must have furnished indubitable proof that I entertain the most sincere respect? He whose discourse is confined within the boundaries of logic, is not guilty of insult to any one. As I cannot sacrifice the welfare of my country to friendship, so neither can I risk its fate upon the opinion of any individual, however profound my respect for him, or whatever my confidence in his integrity or in his ability.

Seeing the Honorable Attorney General in error, could I refrain from doing all in my power to prevent the House itself from partaking it?

I must say that afterwards, when I recollected the confidence with which I had been told that the Honorable Member had received the requisite permission in a letter from the Governor, I could not help fearing that I had been more than usually wanting in prudence, in testifying in the House a doubt which might appear offensive. I could not too much regret it. I do not know how I was able to conceal the profound emotion these disclosures excited in me, or the deep pain with which I heard them.

I saw clearly how unfortunate this occurrence was, not only for me, but for the Province. The respective position of the Governor, of the Ministers, of the House, became, as did my own, so many problems incapable of solution. All pre-conceived opinions were about to be confounded. Things seemed to be involved in a labyrinth to which there was no outlet. My own ideas became confused.

The supposed permission seemed to me something inconceivable. It was neither legally nor constitutionally possible that it could have conferred the right of entering

into explanations such as I had heard ; but I felt that such a document might furnish pretexts at least plausible, for treating any objections however grave, to the motion made by the supporters of the Ministers, as worse than puerile.

It was impossible for me to close my eyes during that night of suffering. The first thing I did on the following morning, was to adopt the necessary means for reconsidering all the circumstances upon which I had formed the opinion that I had expressed in the House on the preceding evening. Never was my heart relieved of a heavier load, than when the result of this re-consideration was, that this supposed permission to explain had no existence.

As regards the assertion, that I have been misled by my friendship for the Honorable Member who has alone remained in the Administration, I am bound to say, that he deserves that friendship ; for he remained faithful to that noble sentiment towards me, when his doing so might have been looked upon as a crime, and have cost both him and his family their means of subsistence : and he has yet more solid claims to my gratitude, for he rendered to my country, at more than one such period of danger, services for which he might have paid a similar penalty. But neither to friendship nor to gratitude, am I capable of sacrificing either the dictates of justice and truth, or the liberties of my country.

The maxim of an honest man is—duty before all else. But if I were capable of being blinded by feelings of this nature, to which side is it likely that the balance would incline ? Who sees not the number of friends I count among the Members of the late Administration ?

Who can mistake my sentiments towards the Honorable Attorney General, whom I am accused, on so singular a pretext, of having designed to insult ? Another

of the Members of the late Ministry is among the number of my pupils: can I do otherwise than be proud of him? A third knows well how fully I appreciate his talents, which do honor to my country? All too are, independently of their claims upon my private friendship, entitled to my respect for their conduct in this House. Have I been backward in giving them proofs of it?

With regard to the Honorable the Attorney General for Lower Canada, more especially, who is there that will not do me justice? I have, among other things, sacrificed to his wishes my opinions with respect to his Bills for the administration of Justice, several parts of which I disapproved. If I spoke against some of their provisions, it was because I was compelled to do so by an imperative sense of duty. This was the case, more particularly, with regard to those by which it was proposed to allow the Judges to sit in Court, on appeals from judgments which they had rendered in the Inferior Term.

I had long before taken all possible means to avoid this contest, by making the Honorable Member acquainted with my views on the questions which this enactment could not fail to raise. I had, at a later period during his stay at Montreal, taken the precaution of informing him that it was impossible for me to do otherwise than oppose, in the most formal manner, this portion of his plan. I made it my duty shortly after my own arrival at Kingston, to observe to him and to four other Members of the administration, that the proposition was contrary to every principle of legislation, and to the ordinary rules of jurisprudence; that it had a tendency so evidently immoral, that an English Author had maintained, that a provision of this kind in an Act of Parliament would, for that reason, fail to be binding. I insisted more especially on the fact, that such an enact-

ment could not but have the effect of lowering, in the public estimation, the Administration which should propose, or even the Legislature which should adopt it.

The same consideration ought to forbid the adoption of the proposed Address, since it would have the same tendency as the enactment I opposed in these Bills. It would, as I shall show, have the same effect upon the character of this House. It might, under the circumstances, have results of a still more pernicious consequence, since it might furnish a pretext for asserting that the system of Responsible Government could never be reduced to practice among us, and that we have neither that calmness of thought or that moderation in our opinions, without which it is not possible for any people to exercise the rights which are the essential concomitants of this system of Government.

The proceeding demanded by the Ministers, and the arguments upon which their supporters claim from this House an Address in approval of their conduct, must, under existing circumstances, rest solely on that permission to enter into explanations, which they solemnly assert that they have received from His Excellency.

What must be thought of this demand, and of all that has passed on the subject in this House since the 27th of November, if it be true that this permission is a mere creature of the imagination, that it has no existence, that the very arguments which have been urged to give it some appearance of reality are pure chimeras.

All the discussions which have been raised in this House by the resignation of the Ministers resolve themselves into the simple questions, whether they received this permission from the Governor, and whether, if they did, there is anything before us which can serve as a basis for the Address we are asked to vote in their favour. I shall demonstrate that these two questions can only be answered in the negative.

I shall likewise, while I disavow all idea of imputing any unworthy intention to the late Ministers, show that they have in this instance lost sight of their solemn obligations and imperative duty.

I shall, in fine, show that the step this House is called upon to take under existing circumstances is without example; that it is inconsistent alike with Parliamentary usages and Constitutional principles, with the rules of morality and with public justice: and that the inevitable result of such a proceeding would be, that not only Responsible Government, but Government of any kind, would become impossible in this Province.

As the individual who holds the reins of Government in any political community is neither endowed with ubiquity nor with that universal knowledge which belongs only to the Supreme Being, it is indispensable that he should surround himself with men able to enlighten him by their advice as to the measures to be adopted in the exercise of his authority. Hence the maxim, *that it is impossible to govern without a Council.*

But the soul of all great affairs, and above all of those which relate to the exercise of the powers of the State, is secrecy, which is subject to the same laws as any other trust. It is the imperative duty of those who form such Council, to keep this trust with regard to all that may pass in the course of their deliberations; and without this no Government would be possible. The Councillors are therefore under a moral obligation to keep silence on these matters; and this obligation is always enforced by the solemnity of an oath, which they are bound to take before entering upon the exercise of their functions. What Government could exist if this obligation were not strictly observed? Who would consent to form part of any Administration? What confidence could subsist between its Members and the Head of the Government, if each had to fear that those confidential communications upon men and things which are matters of daily necessity might be made public?

To this rule there are, as I have before remarked, some exceptions, particularly under governments truly constitutional, or if you will, under Responsible Government, which is only the theory of the former reduced to practice. The Ministers being responsible to the legislative authority and to the two Houses of Parliament in particular, for the measures which they are supposed to direct by their councils, may find it out of their power to agree on all points with the individual who holds the reins of Government, they may differ or even be opposed to him on some points in their views, sentiments, or principles, with regard to measures upon which the facts known to the public may be insufficient to justify them.

If, under such circumstances, they think it their duty to retire from the Council, they apply to the Head of the Executive for permission to state in the Houses of which they are respectively Members, the facts they deem necessary for explaining their conduct, or if need be, for obtaining a vote of approval.

It ought, I think, to be unnecessary to observe that a permission of this nature can only be given upon the most grave considerations; and that above all it is indispensable for those who solicit it, to state clearly and precisely the facts upon which they propose to ground their explanations, in order to afford the Head of the Government the means of judging, first, whether such permission ought to be granted, and, secondly, to what points it shall extend.

Who is there capable of imagining, that it is not necessary to have some document to evidence such permission? What set of Ministers ought to be able to persuade themselves, that a mere verbal permission would be sufficient for them under any circumstances, but more especially when there should be some complication in the facts and points on which the disagreement arose, or some difference of opinion as to the in-

ference to be deduced from the facts themselves, and as to the point of view in which they ought to be presented, in order that a correct judgment may be formed with regard to them?

I may ask, whether it be possible to believe that a verbal permission from the Governor, or even a permission given in writing, unconditional and in general terms, to Ministers tendering their resignation, but having been and being in fact still the legal Councillors of the Governor, can authorize them to unveil to an indefinite extent transactions occurring at their secret deliberations, without first coming to an understanding with him upon the nature of the facts to be thus made public, but above all upon the facts themselves?

What an idea,—that they can be warranted by a mere conversation, as to the bearing of which it is always so difficult for two parties to agree even when no kind of contestation has occurred, in believing themselves entitled to explain to the House, to the country, and to the world, their conduct with respect to deliberations, *secret in their very nature* as well as by a moral obligation strengthened by the solemnity of an oath, not only upon the events of any given instant or day, but upon numberless facts of divers dates, occurring in the course of weeks, months, of almost a year! What man possessing the slightest acquaintance with the principles not merely of a constitutional Government, but of any kind of Government whatever, could fail to see something anomalous in the principles which led to consequences of such nature.

The late Ministers insist, nevertheless, that they have received the required permission. I believe them to be in good faith when they make this assertion. I am far from wishing to raise the slightest doubt as to their sincerity; but I ask, where is this permission to be found? I am entitled to say that it has no existence. They do not pretend that it exists in writing, and their mere

assertion most assuredly cannot, under the circumstances, constitute their own safeguard or that of the Assembly.

What an idea, that a verbal permission the existence of which, on the one hand, is supported by no voucher, even indirectly, and which, on the other hand, has no determinate or distinct object, should appear to them sufficient to authorize them to reveal the secret things connected with their deliberations, or this House to pronounce a judgment on their conduct.

It is impossible they could infer such permission from the remarks made by the Governor on their Memorandum; for those remarks contain a general denial of its correctness, and close with a formal protest against the explanation they proposed to offer to Parliament, "as omitting entirely the actual and prominent circum-"stances which led to their resignation, and as con-"veying to Parliament a misapprehension of his senti-"ments and intentions.....
"and as being calculated to injure him without just "cause in the opinion of the Parliament and of the "people, on whose confidence he places his sole "reliance for the successful administration of the "Government."

I ask by, what subtlety of logic it would be possible to infer such permission from His Excellency's denial of the very facts set forth in the statement of the late Ministers; not to speak of what he says with regard to them, of the circumstances by which they were necessarily qualified, or of his formal protest against the explanation they proposed to give with regard to them?.

The Honorable Member who insisted most strongly on this supposed permission, did not see that he was about suddenly to plunge himself into the most palpable contradictions. All that the Honorable Member has stated on this subject is repugnant to the very nature

of things; supposing that a permission was given, what reason can be assigned for believing that he understood it as other than conditional, after theGovernor's request that the substance of the proposed explanation should, in the very first place, be communicated to him?

Supposing even, that up to the time when they received the Governor's reply, the late Ministers were not bound to consider His Excellency's permission as conditional, how is it possible to avoid seeing, that it was in fact revoked by that part of his reply in which he protests against their explanation?

I shall content myself on this occasion with requesting Honorable Members to call to mind the precedent I appealed to, and which our Ministers ought to have taken as their model, in the conduct of Sir Robert Peel under analogous circumstances in 1839, when he adopted means for obtaining permission to give, in the House of Commons, an explanation of his reasons for declining to form an Administration, after the refusal of Her Majesty to accede to the conditions he proposed.

Among the documents produced on that occasion we find Sir Robert Peel's letter to the Queen, stating in the clearest possible manner the reasons of his determination, with Her Majesty's answer in which she declines to accede to the conditions he proposed, and then the letter written at Her Majesty's command by Lord Melbourne, who had again become the Minister, giving Sir Robert permission to explain his conduct to the House.

It was upon these documents that Sir Robert Peel gave his explanations, which were followed by those of Lord Melbourne. I think unnecessary to enter into new details on this subject, but shall content myself with saying, that (as may be seen by reference to the published accounts of what passed in the House of Commons on that occasion,) there could be no possibility of dispute as to the points and facts on which the

explanations were to be founded; that they were clearly and precisely defined by these letters, and that the permission given by the Queen was formal and in no wise susceptible of the slightest doubt. I again inquire whether it can be pretended, that the proceedings of our late Ministers are founded upon documents equally definite? What would the British House of Commons think of proceedings such as theirs? But our Ministers did not even try the only possible means of obtaining from the Head of the Executive, that permission upon the supposed existence of which the whole fabric of their complaints, and the demand of the partizans for an Address in approval of their conduct, absolutely depend. The pretended permission is utterly chimerical.

If the Ministers really thought they had subjects of complaint against the Governor sufficiently grave to compel them to resign, there was no difficulty in their adopting the steps requisite to entitle them to explain their conduct. They lost sight of the necessity of applying in a proper manner for permission to explain. Am I to blame, because they did not adopt the means requisite to obtain it?

Who cannot now perceive the full force of the objections founded on the absence not only of all right on the part of the Ministers to give their explanations, but of any documents which can serve as a basis for the Address we are called upon to vote in their favor?

But Honorable Members pretend that these are but high sounding words, mere objections on a point of form, and that the considerations I urge ought to have no weight with this House; they treat them as worthy of their contempt! What language is this in the mouths of Representatives of the people, so lately Ministers, and among whom are found Her Majesty's Attornies and Solicitors General, deep

constitutional lawyers doubtless, and whose special duty it is to enlighten the Head of the Executive by their opinions on these matters!

Honorable Members are doubtless aware what care ought to be used in the choice of words, more especially when they have reference to proceedings of this nature. *Yes* and *No*, are words of which one is composed of three and the other of two letters; who will say that the selection of the one or the other is a matter of no importance? According to certain writers of antiquity, it was because the nations of Asia Minor were unable to pronounce the latter of these two words, that bore the yoke of servitude.

But the Address which by this motion is demanded in favor of the Ministers, would have no foundation but in proceedings utterly inconsistent with their solemn obligation to secrecy with regard to the subjects of their deliberations in Council, and contrary to their first duty to the Head of the Government. What an idea, to treat considerations of so grave an import, as mere objections of form!

Yet Honorable Members can see nothing else in them, and treat them as not deserving the slightest attention, as deserving only of their contempt!

If I were not persuaded of the rectitude of their intentions, in what manner could I myself regard the more than strange, unhesitating confidence with which they decide upon this subject? The solemn, religious sanction of an oath is certainly not in their eyes a mere vain formality.

I repeat it, I am far from entertaining the slightest suspicion of the sincerity of the late Ministers; I make no charge against their intentions. I believe them clear of all that could render them culpable in point of conscience; but who can deny, that their many disclosures upon the subject of their deliberations, involve the *sub-*

*stantive fact* of forgetfulness of their oath of office and of their duty, in this respect, towards the Head of the Government?

There are rules of proceeding which ought to be held sacred by deliberative bodies as well as by every other species of tribunal. Honorable Members sit as Judges on this occasion. I appeal to them, as such, whether they can pronounce a judgment without evidence, or upon documents made up wholly of assertion on the one hand and denial on the other, utterly insusceptible of coming properly before this Honse, and stamped with every mark of the most hopeless irregularity.

The Legislative Assembly can no more than a Court, or even an individual who pretends to form an opinion, not merely on a question of accusation or defence but upon any action whatever, be justified in pronouncing a decision, except upon facts proved or acknowledged by those for or against whom they are alleged.

In what a position have the late Ministry placed themselves! In the case before us, any more than in any other, no judgment can be pronounced except upon substantive facts: who can pretend that it is not necessary that such facts should be evidenced to us, if not by irrefragable proofs, then by the mutual assent of the Head of the Government, on the one hand, and of those who demand of us an approval of their conduct, on the other?

Instead of a simple statement of facts, and the production of documents which should render them indisputable, such as an English Ministry would have adopted under analogous circumstances, the document produced by our late Ministers is but a piece of pleading from one end to the other.

Although it might have done honor to the Attorney who prepared it, if it had been a paper to be filed in Court, who will venture to call it a straight forward statement of facts, set forth in a clear, distinct and precise manner, as it was essentially necessary that it should have been ? And yet this document is really the sole foundation on which we are to rest the judgment we are invited to pronounce by the late Ministers and their partizans.

For the second of these documents, supposing for the moment that this House could take cognizance of it, and that we had jurisdiction over the Head of the Administration ; who can aver, that there is in this paper, more than in the other, an acknowledgement of any distinct fact, so stated and specified as to make it impossible to mistake its nature or the circumstances on which its character depends ? Where is any such fact to be found in these documents ?

There is nothing in either of them, but reciprocal argumentation, reasonings upon a case as to the facts of which the parties have been unable to agree.

And besides, who will pretend that this House is not on this occasion subject to all the obligations which bind the Members of a Court of Justice ; that we are not under the necessity of following the essential rules of judicial proceedings ? The very reverse is true ; the Assembly is, by the common law, part of the High Provincial Court, the Parliament. In the present case too, we are required to pronounce a sort of judgment, which, as the Ministers have managed matters, must necessarily relate to the Head of the Government, although we have no kind of jurisdiction over him either for approval or condemnation.

Vainly have Honorable Members contended that they do not act in this judicial capacity, while the proposed Address implies a solemn judgment. Is not the question

before us, whether we shall approve the conduct of the Ministers, and therefore of necessity, under the extraordinary circumstances in which we are placed by their unprecedented proceedings, pronounce sentence on the conduct of the Personage who holds the reins of Government?

No one has expressed his opinion more strongly than I have done, on the document produced before this House as the Governor's answer to what may be termed the pleading of his Ministers; but if there be any irregularity in it, where should the blame of having provoked it rest, if not upon the course adopted by the late Ministers, deserving as it is of censure, while it cannot (as it is impossible too often to repeat) serve as a ground for our pronouncing a decision on the grave questions before us.

The first rule of justice, legally as well as morally speaking, is never to discuss the conduct or the rights of any party and still less to decide upon them, without giving him an opportunity of defending himself. What injustice then, to proceed, as it were, to the trial of one who neither is nor can be before this House, who is without Ministers to explain or defend his conduct here, or to guide him by their counsels elsewhere.

I cannot leave this subject without remarking, that the duty of the Members of this House is not confined to establishing rules of conduct for their fellow subjects, the first conditions as to which are, that in order to be binding they shall be consistent with the rules of morality. As the natural guardians of the public liberties, they are also bound to ascertain and inquire into the grievances of which the people they represent may have reason to complain. They are more especially bound to watch carefully the proceedings of the Tribunals of the Country, that they may raise their voice against any thing in the conduct of those who compose them, which is inconsistent with the rules of justice on which

the fabric of political society is based, and may adopt means of restoring the equilibrium whenever it is interrupted by any stretch of arbitrary power.

With what grace can we complain of the faults of other Tribunals, if we ourselves set them an example of the violation of the fundamental rules of equity, without which there is no more security for a people than for a Government.

Would this be to strengthen the cause of Responsible Government ? How is it possible not to perceive that such conduct can only tend to render it impracticable,—to destroy it ?

Upon what, then, is all this discussion based, if there be no fact before the House on which it can decide for or against the Ministers ? I say nothing of the Governor ; under the present system the rule is, that his conduct cannot be the subject of discussion in this House. The necessary consequence of the Resolutions of 1841, is to withdraw him from all danger of a contest with the other branches of the Legislature, and to throw on his Councillors alone the responsibility, praise, or blame of the measures adopted by the Executive. Those of the late Ministers who are Members of this House, have conducted themselves in a manner directly contrary to these principles ; they have adopted a contrivance for keeping themselves out of sight, while they drag the Governor himself before this House, so as to make the decision they demand in approval of their conduct, in reality, a vote of censure upon him. Setting aside these documents, what have we before us on which to found the Address demanded in their favor ?

No one, I must repeat, has objected, or even now objects, more formally than I do, against the production of the two documents laid before the House in compliance with the address voted on the motion of the Honorable Member for Hamilton. Who, upon reflection, does not see that we did wrong in asking for them ?

On the day when that motion was made, the Ministers resigning were, as they even yet are, considered to be the Councillors of the Governor. They ought to have seen at once, that it was wrong to require of him communication of documents which concerned themselves alone, and which were to be their guide with regard to their ulterior proceedings. The paper signed by His Excellency was his answer to the Memorandum prepared by a Member of the late Ministry in the name of his Colleagues, and would doubtless, (as I have before remarked) never have been read in the House, if they had not taken upon themselves to give their explanations, notwithstanding the protest with which it closes. It left them no alternative, and ought to have reduced them to silence.

They should, therefore, have immediately perceived that it was their duty to oppose the proposition of the Honorable Member for Hamilton, and to throw it out. Their majority would have enabled them to do this. They were under an imperative obligation to take that course, because they ought to have known that even if the document were before the House, the conduct of the Governor on this occasion could never properly be made the subject of comment or discussion.

I felt deeply all the inconsistency of this demand, with constitutional principles and with parliamentary usage ; and it will be remembered that I vainly strove to oppose it.

The Governor's answer (the remark cannot be too strongly insisted upon) could concern the Ministers alone ; but he thought he had reason to fear (and the event has proved him right) that they would give their explanations in the House, notwithstanding the protest with which it concluded. It was intended to be used in his defence in this case only, which, it would seem, must have appeared so unlikely to occur. His Excellency's foresight, however, did not deceive him. He had no

organ in the House. He was, besides, without a Council, and had only one out of the ten Ministers whose duty it had been to enlighten him with their advice. Among those resigning were the four Law Officers of the Crown, a contest with whom was made still more difficult by the fact, that the lips of the only remaining Minister in this House were sealed by his oath of office, while his former Colleagues conceived, and may, perhaps, still conceive themselves at liberty to enter into explanations to any extent.

Doubtless, I repeat, the honorable Secretary would never have read this answer,—it would never have been made public, but for this conduct on the part of the late Ministers; but this circumstance cannot change the nature of the documents before us. Who can defend the attempt of the Ministers to take advantage of their own wrong, if not for the purpose of making evidence for themselves, at least to form the colour of a pretext for this Address? Have I gone too far in applying the epithet of *monstrous* to this attempt?

Yet these two documents form the sole ground upon which this House is urged to pronounce its judgment. The very men who ought to have felt it their imperative duty to resist the motion that they should be laid before the House, held their peace. But recently, or indeed still, the Councillors of the Governor, it was their duty to warn him against the dangers which might result from such a step: Yet they could allow this House to become an instrument for obtaining from him documents, which have become public solely through this proceeding; and on these they urge the House to pronounce a kind of sentence in their favour, which must imply a censure on one whose conduct we have no power to canvass!

But allowing that these documents could of right become the subject of comment and of discussion in this House, what, I ask, could be the result, since they contain

only assertions on the one part and denial on the other, and there is in them (so to speak) nothing tangible upon which a judgment can be formed ?

I may ask also, on the same grounds, how it is that Honorable Members do not see that this conduct is repugnant to every principle of equity,—that it implies a violation of the clearest rules of constitutional law and of Responsible Government, while it is utterly inconsistent with parliamentary practice. Who will dare to say, that proceedings of this nature can be regarded as the result of an enlightened sense of duty, of in accordance with sound principles of justice and of public morality ?

I flatter myself that I have not, in the course of this discussion, exceeded the limits of energetic expression ; I speak the language of profound conviction, because I feel that the subject I am treating is one of vital moment. But I think it right to say, that I should deeply regret to have imputed to me any feeling of bitterness with regard to the errors it has been my bounden duty to point out. Who could expect, that in carrying into practice a system wholly new in this Province, it would be possible to avoid falling into some mistakes ?

Far from permitting ourselves to be under the domination of angry feelings, it is our duty to come with all possible calmness to the examination of this important question. Can any one fail to see that all parties deserve indulgence ? This is but fair to the Ministers and to those who declare themselves their approvers, who are, however, bound to render the same justice to the Head of the Government, when they remember that the men who ought to have guided him by their counsels, were themselves the first to lose their way in this labyrinth.

I have shewn, that the permission to which the late Ministers appealed, as entitling them to give their explanations, had no existence ; that in this respect they had not even the colour of a pretention to the right they claimed.

I have likewise shewn, with respect to the only documents which are relied upon as affording grounds for an Address in their favour, that, (apart from all consideration of the inconsistency of the steps taken to bring them before this House, with the usages of Parliament and the principles of justice,) they could only have the effect of making the late Ministers appear suddenly discharged from all responsibility, in order to throw the whole weight of it upon the Governor who had no mode of defending himself. A strange fashion this of understanding Responsible Government! It would be a contradiction in terms if applied to a government of any kind, and would overset all received notions of the principles on which alone a government can be supported.

The proceeding which Honorable Members are urging this House to adopt, far from strengthening the system which they admire and think they are supporting, can only tend to shake it to its foundations ; their carrying it would only be a proof that the people of this Province may lose sight of the most elementary principles, not only of Responsible Government, but of Government of any other kind, upon whatever system it may be organized.

One of the greatest dangers a people can run, is to lower its character by acts at variance with those essential principles which are the true safeguard of its rights, while they assure the stability of its Government. If it were true, that the resolution before us, and the speeches of Honorable Members on this occasion, breathe the

sentiments of the great body of the people, they might produce this unhappy effect. How, then, does it happen, that the partizans of the proposed address in favour of the Ministers, do not recoil before this terrible responsibility.

What must be thought of the attempt to erect not only palpable errors, but a forgetfulness of the most solemn obligations and,—setting aside the intention which is of course innocent,—I may say, the substantive fact of a violation of the most sacred of duties, into a sort of principle which is to serve as a basis for the liberties of the people.

Those who are called to the exercise of authority, even when they seek to convert it into arbitrary power, and thereby gradually deepen the abyss in which such power is always in the end engulfed, may yet for a time maintain their sway even among the ruins of the edifice of political society. They have, on their side, the advantage of an organization formed with careful foresight, of the concentration of the physical force which they command, and of the habit of obedience on the part of the people, who are naturally the friends of order, through which alone they are enabled to exercise their talents, for their private interest or for their mutual benefit. But, on the other hand, a people can neither acquire or maintain a title to those rights which are the heritage of freedom, save by justice alone. A disregard for the rules which she prescribes, entails on them the total loss of their importance and moral force ; they forge their own chains, and habitual immorality prepares them to be slaves.

# POSTSCRIPTUM.

It will be seen, that Mr. Viger did not think it his duty to enter into an examination of the contents of the Governor's answer, or of the Memorandum of the Ministers. A discussion of that nature must have been without aim as without result. How can any judgment be formed on contested points when there is no evidence? How can we tell to which side the balance inclines?

The partizans of the late Ministry have, however, never since ceased to insist, as they then did, exclusively upon what they thought they perceived of blameworthy in the answer of His Excellency. There was, nevertheless, matter in it tending much to show that the late Ministers were themselves to blame, more especially with regard to certain intentions which they have since disavowed.

The error was, in the Members of the Assembly constituting themselves judges, and (not to speak of the want of jurisdiction on the part of the House) pronouncing a decision on documents which were contradictory, and upon a multitude of allegations neither supported by proof nor acknowledged by the other party, and upon which it was, therefore, not allowable to ground a vote either of approval or censure.

Mr. Viger was unwilling, even, to insist on a circumstance which still remains an enigma. The appointments which afterwards formed the subject of the complaints of the late Ministers, were all of dates anterior to their communication with the Governor in the latter part of November. They did not think proper to resign when these appointments were made; and there was nothing in their explanations to afford reason for believing, that the Governor subsequently offered to

make any appointment or to adopt any measure whatsoever, of a nature to furnish grounds for their sudden resolution to abandon their posts.

On the other hand, supposing the late Ministers to have been guilty of errors, the Governor certainly could not suddenly and before these errors were proved, make any changes among them, while they appeared to him to possess the confidence of the other branches of the Legislature. He must first have raised some definite point on which a judgment could be formed, in order to justify his appealing to the sense of the people by dissolving the Parliament.

And besides, under whatever point of view we may look at this question, who will be willing to blame the Governor, who, indeed, will not feel thankful to him, for having declined to adopt this violent course, and for having thereby afforded to the people as well as to their representatives, time for reflection upon the facts discussed in the preceding summary.

With regard to what occurred in the Assembly on the same day, the reader is referred to the first Part, which contains a statement of the proceedings relative to the subjects discussed by Mr. Viger. The Journals of the House are, moreover, before the public.

We should think it wrong to close, without calling attention to the difference between the conduct of our Ministers during the last Session, and that of the Executive Councillors who lately resigned in Nova Scotia. There, as it is easy to see, the question turned upon a fact clear, definite and patent, on the nature and circumstances of which all parties were agreed. It was only on the manner of looking at it, and the results it was of a nature to produce, that any discussion could arise.

We deem it our duty to embrace this opportunity to remark, that the almost simultaneousness of the resigna-

tion of certain of the Ministers in the two Provinces, respectively, has caused it to be supposed that there was something more than mere coincidence between some of the proceedings of Lord Falkland and of the Governor General.

The declaration of the latter, with regard to the principles of Responsible Government which are embodied in the Resolutions of our Legislative Assembly, and which appear to be less formally recognized in Nova Scotia, ought to have sufficed to dissipate the suspicions to which this seeming coincidence gave rise. With what eager activity were the newspapers made use of to circulate in the Province, on this subject, rumours in which these suspicions assumed the shape of frightful realities, and were treated as indisputable facts ! According to the Editors, the proceedings of the two Governors were the result of a plan concerted beforehand with the Colonial Office. The Author has the most lively satisfaction in being able to declare openly, that with the exception of the mere fact of coincidence, these rumours are without a shadow of foundation. There was not the slightest communication of the nature in question between the Governor General and the Lieutenant Governor of Nova Scotia or the Colonial Office, before the resignation of our Ministers. There has not been any, even since that time, between Lord Falkland and the Governor General.

Who indeed, having the slightest acquaintance with or experience in public affairs, can imagine that the Governor could have made his reiterated declarations relative to the principles embodied in the Resolutions of the Assembly in 1841, if he had received from Her Majesty's Government in England such communications as the articles inserted in the Newspapers would led the public to suppose ?